

1 RENE L. VALLADARES  
2 Federal Public Defender  
3 State Bar No. 11479  
4 JOANNE L. DIAMOND  
5 Assistant Federal Public Defender  
6 411 E. Bonneville, Ste. 250  
7 Las Vegas, Nevada 89101  
8 (702) 388-6577  
9 Joanne\_Diamond@fd.org

10 Attorney for to Joshua Martinez

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JOSHUA MARTINEZ,  
  
Defendant.

Case No. 2:21-cr-00219-APG-DJA

**Stipulation to Continue**  
**Sentencing Hearing**  
(Third Request)

IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson, United States Attorney, and Daniel R. Schiess, Assistant United States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public Defender, and Joanne L. Diamond, Assistant Federal Public Defender, counsel for Joshua Martinez, that the Sentencing Hearing currently scheduled on June 11, 2024, be vacated and continued to a date and time convenient to the Court, but no sooner than ninety (90) days.

This Stipulation is entered into for the following reasons:

1           1.       On May 9, 2024, the Ninth Circuit issued its opinion in *United States*  
2 *v. Duarte*, No.22-50048 (9th Cir. 2024), finding 18 U.S.C. § 922(g)(1)  
3 unconstitutional as applied to Duarte. Like Duarte, Mr. Martinez has no violent  
4 prior convictions. As such, the Court's opinion calls into question the validity of  
5 Mr. Martinez's conviction.

6           2.       The government has filed for rehearing in *Duarte*. Whether it will  
7 remain good law is uncertain.

8           3.       At this stage, defense counsel would be ineffective if she allowed Mr.  
9 Martinez to proceed to his sentencing when the constitutionality of his offense of  
10 conviction is in flux.

11           4.       Mr. Martinez is not in custody and agrees with the need for the  
12 continuance.

13           5.       The parties agree to the continuance.

14           This is the third request for a continuance of the sentencing hearing.

15           DATED: May 16, 2024.

16  
17  
18       RENE L. VALLADARES  
19       Federal Public Defender

          JASON M. FRIERSON  
          United States Attorney

20       By /s/ Joanne L. Diamond  
21       JOANNE L. DIAMOND  
22       Assistant Federal Public Defender

          By /s/ Daniel R. Schiess  
          DANIEL R. SCHIESS  
          Assistant United States Attorney

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,  
4  
5 Plaintiff,

6 v.

7 JOSHUA MARTINEZ,  
8 Defendant.

Case No. 2:21-cr-00219-APG-DJA  
**ORDER**

9  
10 IT IS THEREFORE ORDERED that the sentencing hearing currently  
11 scheduled for Tuesday, June 11, 2024 at 11:00 a.m., be vacated and continued  
12 to September 17, 2024 at the hour of 10:30 a.m. in Courtroom 6C.

13 DATED this 20th day of May, 2024.

14  
15   
16 \_\_\_\_\_  
UNITED STATES DISTRICT JUDGE